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ABSTRACT

In this report, the author discusses public employee negotiation legislation, issues and the basic law in negotiations, approaches and alternatives to bargaining, the negotiation process, and areas of special concern in negotiation. He concludes that one of the most important skills an administrator of the future might possess is a skill in negotiations or conflict resolution. (Author/JF)

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BULLETIN

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BARGAINING - COLLECTIVE NEGOTIATIONS

by

Donald C. Kilgras

Vol. 16, No. 8 April, 1973

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FOREWORD

Bargaining is a decision-making process which may be contrasted with other ways of viewing administration in that the bargaining process is bilateral rather than unilateral. Basic to the bargaining process is an assumed conflict of interest or need which must be resolved by some procedure.

This process, in the negotiations literature, has been described by various terms: collective negotiations, collective bargaining, and professional negotiation. The author provides a helpful delineation of these terms with a discussion of the philosophy implied in each approach to the process.

The author discusses legislation, issues and the basic law in negotiations, approaches and alternatives to bargaining, the negotiation process, and areas of special concern in negotiations. His conclusion provides us with a brief glimpse of the future.

The author concludes that one of the most important skills an administrator of the future might possess is a skill in negotiations or conflict resolution. Unless he wants to stay on the side and be left out, the administrator of today and the future must accept negotiations as a fact of life in public education and develop the necessary attitudes, knowledge, and skills to function in this relatively new arena.

Mr. Don Kilgras is a public school administrator currently on educational leave from Judson Junior High School in Salem, Oregon. He is studying for a doctorate in Educational Administration at the University of Oregon in Eugene, Oregon.

--the editors

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ADMINISTRATION AS AN ADVERSARY ROLE: BARGAINING - COLLECTIVE NEGOTIATIONS

Bargaining is a decision-making process. This way of viewing bargaining is commensurate with the idea, expressed by many writers in the field of educational administration, that everything involved in administration, directly or indirectly, is cast in a decision-making mold. In contrast with other ways of viewing administration, the bargaining process is bilateral rather than unilateral. That is, in bargaining there are two parties involved in the decision-making process. In consensus administration and other similar forms there are frequently more than one party involved. The important difference, however, lies in the fact that in bargaining there is an assumed conflict of interest or of needs, which must be resolved through some formal procedure.

What is the procedure that teachers, administrators, and school boards are going through to decide issues and find sources of conflict? In negotiations literature this process comes under several names--sometimes used separately, sometimes interchangeably. There seems to be a great deal of discussion about the three terms, "collective bargaining," "collective negotiations," and "professional negotiations." In each of the terms is implied the basic philosophy or approach to the process.

Bargaining Defined

"Collective bargaining" is the term associated with the bargaining process in industry. This is the term favored by the AFT, which follows logically, as the AFT has affiliated itself with organized labor. The NEA

favors the use of the term, "collective" or "professional negotiations." This, of course, implies that the AFT favors the union philosophy of having a basic employee-employer conflict which necessitates a formal bargaining procedure. The NEA wants to deemphasize this conflict and bring negotiations to a higher level of problem solving. This does not mean that members of the NEA are more "professional" than members of the AFT. On the contrary, one study[1] shows that professional organization members scored lower than union members in professionalism, as judged by years of training, training institutions, publications, subscriptions to professional journals, and activity in professional organizations. In later years the NEA has moved closer to the union idea of bargaining as competition between the NEA and AFT has intensified.

Perry and Wildman[2] state that collective bargaining in industry is essentially a power relationship and a process of power accommodation. Broderius[3] defines collective negotiations as an "adversary process," borrowing the conceptual term from jurisprudence, and describing a case involving a plaintiff and a defendant which concerns a point upon which they cannot agree. Stinnet et al.[4] define professional negotiations as a set of procedures, written and officially adopted by the local staff organization and the school board, which provides an orderly method for negotiating on matters of mutual concern, for reaching agreement, and for establishing educational channels for mediation and appeal in the event of impasse. Gilroy et al.[5] state, "collective negotiations is an art." Gilroy stresses the behavioral aspects of negotiations, viewing negotiations as a continual, bilateral, problem-solving process, as opposed to a crisis-ridden, unilateral arrangement with a win-lose result.

From writings on negotiations, two trends emerge. The negotiations process is viewed as involving an adversary relationship or a problem-solving

relationship. This does not imply a complete dichotomy, but rather could be pictured as a bipolar continuum. There is thought that, as groups and organizations become experienced in the bargaining process, they mature and move along the continuum from conflict to problem solving.

Negotiations in education were very much an adversary process and conflict-ridden situation in the early stages. Dykes,[6] quoting Kratzman, states that as teacher groups mature they become more concerned with professional matters and less with welfare matters. This implies a goal orientation shift from the personal level to the organizational level. Thompson[7] explains this shift of emphasis by using Maslow's theory of a hierarchy of needs. Once the physiological and security needs of teachers are met by attractive welfare packages, there will be a shift to different need levels--the social and esteem levels. This shift manifests itself as involvement in decision-making or educational issues.

Key Concepts in Bargaining

Perry and Wildman[8] enumerate some of the key elements in bargaining. First, there exists a conflict between the managers and the managed in any enterprise. There is unity of the employee group on the various areas of conflict. Each party has the right and the ability to inflict loss on the other if they fail to reach an agreement. Bargaining power is the ability to move the opposing party toward your position on the issue and accept agreement on your terms. Bargaining power is usually thought of in economic terms, but can also be the total of all environmental factors: political, social, economic, and psychological pressures. These key concepts of bargaining are derived from industry and private sector bargaining. Many writers in

the field doubt the wisdom of applying the principles of private sector bargaining to education. Williams[9] cites the following disadvantages in the use of a union model of bargaining.

1. Conflict of interest becomes a self-fulfilling prophecy and is exaggerated.
2. Union stridency; emotion replaces rationality.
3. Residue of hard feelings restricts a move to problem solving.
4. Unions evolve from public interest to conservative, narrow self-interest.
5. Written contracts reduce flexibility.
6. An outside organization is brought into the decision-making process.
7. Conflict is institutionalized.
8. There is hesitancy of school boards to deal with parties not elected.
9. Compromise as a decision-making process is not always rational.
10. Negotiations are time-consuming.

The Move to Bargaining

As bargaining becomes more and more the order of the day in education, one has to ask: Why now? What has happened to bring negotiations to the fore with such intensity? Why have negotiations in education been far behind those in the private sector?

The first affiliation of any teacher group with organized labor was in 1902.[10] While there have been many scattered instances of negotiations between teachers and boards of education over the past fifty years, the acknowledged breakthrough was the December 1961 recognition of the UFT as the exclusive bargaining agent for public school teachers in New York City.[11]

The slow adoption of negotiations in education can be attributed to many factors. The desire for professionalism by the teachers has caused them to shy away from any alliance with organized labor. The idea of education as a service also caused them to avoid alliance with organized labor; that is, teachers did not enter the field of education for economic reasons, but for service reasons. This idea has been one of the major barriers preventing the adoption of a militant stand on economic matters. Also, the legal position against negotiations by public employees has served to inhibit the move to negotiations in education. The National Labor Relations Act in 1935 specified that government units or enterprises were not covered under the Act.[12]

Why is there now such an intense move to negotiations, characterized by "teacher militancy"? There are several recurring reasons given in negotiations literature for this new militancy on the part of teachers. Perry and Wildman[13] and Williams[14] have summarized some of these reasons.

1. The changing character of the teaching profession: a greater percentage of males, a lower turnover in personnel, teachers are being better-prepared and are becoming more professional, and there seems to exist a generation gap between the older administrators and the younger teachers as regards basic philosophy.

2. The rivalry between the AFT and the NEA has caused both groups to attempt to secure more benefits for their respective members.

3. The reaction to the public disenchantment with education has been a defensive position by the teachers and has caused them to adopt the posture--"if we are going to be blamed for the situation, we are going to have more control over the situation."

4. Teachers' salaries have not been in line with what they feel has been their contribution.

5. The dissatisfaction of teachers in the large school systems and the reaction to bureaucracy has increased the desire to have a greater voice in policy formulation.

6. Finally, the tone of society--especially in the 60's--was that of activism. For a group of teachers, who are supposed to be models of behavior for young people, not to become involved would seem hypocritical.

Legislation

With the rise of negotiations in the public sector, a corresponding rise has come in the amount of legislation by the states affecting these negotiations.

A 1972 survey[15] showed that thirty-nine states and the District of Columbia participate in professional negotiations, of which thirty-five had legal precedent. Twenty-seven states had statutes that either mandated or allowed negotiations; six had attorney general opinions; one, a judicial decree; and one allowed negotiations by local school board ruling.

As Perry and Wildman[16] point out, the wording of the statute has implications for the actual conduct of the negotiations. California's statutory obligation is to "meet and confer." This puts no onus on the school board to reach an agreement. Other statutes include such phrases as "in good faith" and "with an attempt to reach an agreement," which add more structure to the process.

The coverage, or the positions and individuals included, under the statutes is varied. New York's coverage is very comprehensive and includes any person holding a position by employment or appointment with a unit of government.[17] Most states have various exceptions or stipulations such as: certificated teachers only, no elected or appoint officials, various administrators excluded, and applying to school personnel only. Provisions stipulated for the negotiating unit show a marked trend for a separation of

units of teachers and administrators. Representation by the negotiating unit is exclusive in the majority of states, with the remaining having proportional representation.

Concerning the scope of negotiations, there has been the attempt to limit those things which could be negotiated. The most common terms used are "wages," "hours," and "conditions of employment." As of 1971 five states permit negotiations on matters other than those mentioned above. Of these five, Washington gives the broadest specific coverage, including curriculum, texts, in-service training, student teacher assignment, personnel, hiring and assigning, leaves of absence, and non-instructional duties--all as areas for negotiation.

The procedure for handling impasses varies from a single person to ad hoc panels, to state boards. The impasse review recommendations are for the most part non-binding. Three states allow for binding arbitration by mutual agreement. Maine specified binding arbitration on salaries, pensions, and insurance. There is a trend toward binding arbitration now as a means of avoiding strikes.

Strikes are prohibited in all states except Vermont, Hawaii, Pennsylvania, and Wyoming, where they are permitted, except when enjoined by court order "showing a clear and present danger to the school program."

An analysis of trends in legislation shows the following negotiations legislation could be expected:

1. A continued increase in states requiring or authorizing negotiations in education.
2. Fewer restrictions as to the scope of negotiations and the individuals included in the bargaining unit.
3. More specific provisions or definitions in all areas of negotiations.

4. A wider scope of negotiable items, either listed or implied.

5. More refinement and consistency in impasse resolutions procedures.

6. More control over unions by government; i.e., fiscal and internal democracy.

Issues and the Basic Law in Negotiations

The Wagner Act in 1935 defined the rights of employees to organize and to bargain collectively with their employers through representatives of their own choosing.[18] Key elements of the law include that the representative shall be elected by a majority of the employees to act as the exclusive representative, and elections shall be set up to freely make this choice. Certain unlawful employer moves are designated as "unfair labor practices" and would be dealt with by the National Labor Relations Board. In 1947 the Taft-Hartley Act evened things up a little bit and designated certain actions of the unions as "unfair labor practices."[19] It must constantly be kept in mind that these laws were intended for controlling negotiations in the private sector, and at the time, employee bargaining was not really considered in education.

Perry and Wildman[20] state six elements of bargaining in the private sector which they feel serve to institutionalize conflict:

1. the right to organize;

2. designation of an exclusive majority representative;

3. union-security arrangements bargaining and signing an enforceable agreement;

4. grievance processing and binding arbitration;

5. concerted activities;

6. picketing and the strike.

Doherty and Oberer[21] take the stand that many of the burning issues are now a fact of life and must be dealt with rather than fought.

There are several problems which arise in applying private sector bargaining to education. These problem issues appear time and again as the main difficulties in educational negotiations. The most basic issue is, "do public employees have the right to organize?" As stated by the Wagner Act in 1935 this was not seen as a right of public employees. However, President Kennedy's Executive Order 10988 of 1962, giving federal employees the right to organize, set a precedent that most states have followed in regard to public employees. The right to join and participate in employee organizations is based on the Constitution of the United States.[22] The First, Fifth, and Fourteenth Constitutional Amendments guarantee the right to peaceably assemble, to petition the government, the right of free association, and the right to freedom from deprivation of liberty without due process.[23] The right of self-organization by teachers, while resisted in some areas, has become increasingly common.

The most burning issue facing the school board is the question: "Is deciding matters pertaining to education an illegal delegation of authority on the part of the school board?" The traditional position is that the school board, as a governmental agency of the state, has been delegated the authority and responsibility for carrying out one of the functions of the state, that of education. This principle of sovereignty (or "public policy") implies that, having been vested with this authority, if the school board enters into negotiations to co-determine matters (that only they may decide upon, legally), it constitutes an illegal delegation of authority. While still a minority view, Perry and Wildman state that courts are declaring

negotiated contracts valid on the grounds that school boards, as governmental agencies, have implied authority, pursuant to the statutes under which they operate, to conduct their business as effectively and efficiently as possible.[25] Doherty and Oberer take the stand that regardless of the legislation on the matter, negotiations are a fait accompli.[26] They state that to fight to preserve the status quo and delay inevitable change generates resentment and unnecessary strife.

The problem of illegal delegation of authority covers several aspects of bargaining. Among these are the right to negotiate, binding arbitration, written agreements, and the scope of negotiations. Some states try to circumvent the problem by agreeing to negotiate, but place no requirement to reach a signed bilateral agreement. As mentioned previously, the statutes in these states usually contain the words, "meet and confer," but leave out the terms, "in good faith" or "with the purpose of reaching an agreement." In private sector bargaining, good faith bargaining means the obligation of both parties to meet at reasonable times, be willing to make counterproposals, and to reduce the negotiated agreement to writing.[27]

The same basic reason boards are reluctant to sign an agreement makes them reluctant to enter into binding arbitration. The idea of a third party making decisions on issues the board feels is their responsibility is argued to be illegal delegation of authority. A small percentage of states allow binding arbitration by mutual agreement. It will be interesting to see if the idea of "implied authority" of the board is stretched to fit this problem. President Nixon's Executive Order 11491 issued in 1969 provides for third party impasse procedures, including binding arbitration, for federal employees. This executive order establishes a precedent for binding arbitration in matters

involving public employees.

With the establishment of the right to organize and negotiate comes the crucial question: "What is negotiable?" This is a more difficult question to answer in public education than in the private sector. In private enterprise bargaining, it has been spelled out very clearly that the areas for bargaining are wages, hours, and conditions of employment. Many states and districts have adopted this same stand in public education without looking into the basic philosophy behind it. In many areas the term "conditions of employment" has been stretched to include any question of educational policy not specifically prohibited by statute. California and Washington are two states which have spelled out a wide variety of issues which can be negotiated.

The premise in industry is that there is a dichotomy of goals between the employee and the employer; the organizational vs. the individual needs. In labor legislation the premise taken was that the individual worker had to be protected lest he be exploited for the profit of the organization. The matter of policy as to product management was seen as the right of the employer. The employer had the expertise in the product development area and had to have rein to compete as long as it had no adverse effect on the worker.

As Doherty and Oberer point out this is not the case in education.[28] First, there should not be a dichotomy of goals in education, as the hoped-for product is sound education for pupils. Secondly, the expertise in product management lies not with the employers, i.e., school boards--but with the employees, the teachers. With the growing alignment of the superintendents and principals with the boards, it could be argued that a great deal of expertise now lies also on the employers' side. The teachers claim that it is just good sense to include the teachers as resource people and even as decision

makers on policy matters which directly affect them and about which they have the most knowledge.

This again brings up the subject of the scope of negotiations. The American Association of School Administrators has suggested one approach to determining the scope of negotiations is to make a distinction between negotiation and advisory consultation.[29] This approach allows for teacher involvement in many areas without the teachers actually being involved in negotiations. Also, with the advisory assistance of teachers, many issues may be resolved and therefore not subjected to negotiations.

The decision as to what are the "rights" of teachers in deciding many educational issues and what are the "management rights" of the school board is a problem which will be with us for quite awhile. Perhaps Gilroy et al. stated it best, that less emphasis on rights and more on problem solving leads to a more satisfactory employee relationship.[30]

The problem in public employee bargaining which everyone tries to avoid is the matter of the strike. Because the strike is prohibited in all but four states, it is assumed that it will just go away. But with eighty teacher strikes having taken place so far in 1972, the strike is very much a part of negotiations. The argument for prohibiting strikes is that the school is a monopoly set up by the government and unlike in private enterprise, the public has no other alternative. This tends to disrupt the balance of power between the two bargaining groups. Views toward the strike ban have changed and the current trend is for prohibiting strikes by public employees only when the court decides that the strike will endanger the public health, safety, or welfare.[31] It should be mentioned that the southern states have maintained a strict stand on prohibition of strikes. Doherty and Oberer[31]

stress the point that if there is to be a ban on teacher strikes and if we hope to enforce this antistrike measure, an effective alternative to the strike must be provided.

The smack of "civil disobedience" of a strike has hurt the public image of teachers. The only way to alleviate the threat of a strike would be to go to binding arbitration. This also has a problem as was mentioned earlier, that of illegal delegation of authority. However, there is ample precedent for the use of binding arbitration by public employees. President Nixon's Executive Order 71491 and the use of binding arbitration in the past by postal employees, firefighters, police, and teachers weakens the argument of illegal delegation of authority. Also, it has been argued that binding arbitration makes negotiation meaningless as both sides merely use this time to jockey for a favorable position for arbitration. Finally, teacher strikes are a very real part of negotiations and if the problem is to be solved, it must be faced and some possible alternatives and solutions worked out.

Other important issues which should be looked into individually, but which the limited space of this article prohibits, are as follows: Who should be in the bargaining unit? Should there be exclusion or proportional representation? How long should the representation last? Who should administer the law on teacher negotiation? There is the question of teacher accountability which has been an outgrowth of negotiations. What is the best style of grievance procedure? What is the stand on the union-shop, dues-checkoff, and union-security arrangements? Many of these problems have led to legislation in those states which now allow public sector bargaining. This does not mean that the problems have been completely solved--as the present-day controversy shows.

Approaches and Alternatives to Bargaining

There are various approaches or strategies which can be utilized in collective negotiations. One's philosophy or idea of how negotiations should be conducted is very important in deciding which approach to use. Lieberman and Moskow outline three approaches to collective negotiations: the marketplace approach, the professional approach, and the problem-solving approach.[33]

The marketplace approach is based on the idea that the teachers sell their services for the highest amount possible to the board who tries to pay as little as possible. This process is on a win-lose basis and leads to strained relationships. The professional approach allows for a conflict of interest in some areas and a mutuality of interests in others. This approach would have collective bargaining in the area of economic matters and problem solving in the area of educational policies. The problem-solving approach sets its eyes on the end to be achieved rather than on the means. The best way is the most effective way to reach the desired goal with prerogatives not being important. To be effective both sides must follow the chosen (or problem-solving) model religiously.

The AASA[34] describes two contrasting approaches to negotiation: around the table consultation and across the table negotiation. The first approach is on the problem-solving level, is informal and stresses cooperative participation. The second approach is an adversary process, moving from convergence to consensus or impasse. According to Vantine[35] there are two different methods in collective negotiations. Pure bargaining is a high-conflict experience in which one party demonstrates and uses its bargaining power to coerce the other party into making concessions. Mutual accommodation is a low-conflict

situation where problem solving takes place and both parties make gains.

Walton and McKersie[36] use the theory of two opposing strategies: pure distributive bargaining and pure integrative bargaining. Pure distributive bargaining is crisis bargaining and leads to impasses and decision making on the basis of short-run power. Pure integrative bargaining is a problem-solving approach leading to decisions based on reason. Between these two extremes are two mixed strategies. "Game playing" leads to bid-ask approach in decision making based on threat of exercise of power. "Utility matching" is a trade-off approach based on the relative value of the issue to the sides.

Education has followed the same evolutionary trend as industry in adopting bargaining strategies. In the early period, crisis bargaining was the rule because of the following reasons:

1. High and rigid teacher expectation.
2. Insecure teacher organization leadership.
3. Strong board concern for its rights.
4. Inexperienced board leadership in negotiations.

According to Perry and Wildman[37] game-playing has emerged as the dominant approach in educational negotiations because both parties have enough power to force compromise, and the economic conflict necessitates an adversary approach. These authors maintain that the main obstacle keeping the relationship from maturing into an integrative bargaining relationship is the conflict between the teachers and community over the level and structure of resource use in the school.

The Negotiation Process

Once the decision has been made to negotiate, whether by mutual agreement or by statute, there are some decisions to be made and procedures to be

established. The approach or philosophy taken regarding negotiations, as discussed earlier, must be formed. Hopefully it will be a philosophy of common purpose and mutual trust. The two basic problems facing the negotiating parties are (1) setting up procedures that will be followed during the sessions and (2) determining the scope of negotiations, i.e., the items or areas that may be negotiated.

It is very important to set up and establish procedures if the negotiations are to run smoothly and effectively. Both parties must accept the procedures and agree to follow the guidelines presented. The following outline is commonly used in conducting negotiations:

Procedures for Negotiations

I. Who will negotiate?
   A. For board
   B. For staff
   C. Professional negotiator

II. Negotiation sessions
   A. Open or closed
   B. Dates
   C. Time
   D. Place
   E. Cancellations or postponements

III. Specific procedures
   A. Minutes
   B. Data--shared or separate
   C. Who may attend?
      1. Consultants
      2. Legal representation
      3. Experts
   D. Who is official spokesman?
   E. Caucuses
   F. News releases--separate or joint

IV. Legal responsibilities

V. Approach to negotiating
   A. Package
   B. Item by item

VI. Who ratifies the agreement?
  A. Board - team
  B. Organization - staff

VII. Publication of the agreement
  A. Board's responsibility
  B. Team's responsibility
  C. Superintendent's responsibility
  D. Joint

Once the procedures for negotiating have been established, determining the scope of negotiations becomes the focus. The scope of negotiations is usually specified by state statute in those states which permit bargaining. These laws vary considerably from state to state. The wording of the statute may leave room for interpretation by the parties involved. The most common example of this ambiguity in wording is "conditions of employment." The teachers' groups interpret "conditions of employment" in a very broad sense to include all things involved in the educational process. There are lists which include over 400 items which may be negotiated. The following areas are not those which must necessarily be negotiated, but which might be negotiated.

Areas of Negotiations

I. Contract and salary provisions
  A. Contracts
    1. General or specific
    2. Extra-duty assignments
  B. Salary
    1. Allowance for training and experience - schedules
    2. Allowance for certification
    3. Substitute pay
    4. Administrators
    5. Extra-duty pay
  C. Payment policies
    1. Date of payment
    2. Number of payments
    3. Payroll deductions
    4. Salary adjustments
  D. Length of school year
  E. Paid vacation days

II. Conditions of work
   A. Length of work day
   B. Class load
   C. Assignments
   D. Transfers
   E. Promotions
   F. Vacancies
   G. Preparation time
   H. Duty-free lunch period
   I. Para-professionals
   J. Grievance procedure

III. Educational policies
   A. Curriculum
   B. Textbooks
   C. Professional development and improvement
   D. Teacher evaluations
   E. Teaching procedures

IV. Leave policies
   A. Illness
   B. Sabbatical leave
   C. Military leave
   D. Study and travel leave
   E. Maternity leave
   F. Jury duty or court leave
   G. Attendance at professional meetings
   H. Personal emergency leave

V. Employee benefits
   A. Group insurance
      1. Medical
      2. Dental
      3. Liability
   B. Tax-sheltered annuities
   C. Severance or retirement plan
   D. Staff insurance

VI. Miscellaneous
   A. Pupil discipline
   B. Teacher discipline and dismissal
   C. Teacher-student legal rights

Areas of Special Concern in Negotiations

There are a few areas in the negotiating process which seem to have particular importance: (1) preparation for negotiation, (2) selection of the negotiating team, and (3) impasse and binding arbitration. Following is

an in-depth discussion of these areas.

(1) If the negotiations are to be an exercise in rational decision making, the parties involved must have rational bases for their stands. Each party must prepare carefully, collect data, and analyze positions in terms of needs and interests of the parties involved and the realities of the situation. The following are steps proposed by Gilroy et al.[38] to follow in preparing for negotiations:

1. Analyze current contract for possible modifications.
2. Analyze nature and source of grievances to discover defects in present contract and to form basis for negotiated items.
3. Confer with employee and employer representatives to see how present contract is working out in practice.
4. Confer with other outside group to discover current trends in negotiations.
5. Take formal and informal surveys of employees and employers to determine reaction to possible future proposals.
6. Analyze arbitration decisions for purpose of changing contract.
7. Collect and analyze economic and issue-related data.
8. Teacher group should ask for rank-and-file suggestions and strive for united support.

(2) The selection of a negotiations team is one of the most important decisions either of the parties has to make. The techniques and tactics adopted by the team may well set the operational tone for the district. The agreement reached by the teams may determine the quality of the educational program for the time span of the agreement. Either side may win the battle and lose the war, by severely hampering the educational program of the district. Who makes up the team, then, is the initial question. The teachers'

team has usually been represented by officers of the teachers' organization or by individual members skilled in negotiations. Board representation has changed since the early stages of negotiation. At first, whole boards or individual members entered into negotiations. As boards became aware of the complexities of the process, they tended to have negotiations carried out by the superintendent or a staff specialist. Both parties have moved from large negotiating teams to either small groups or single spokesmen. In many areas professional negotiators or lawyers have served both groups.

It is in the making of the negotiating team, that many role problems arise, specifically, the role of the middlemen, i.e., the superintendent, principals, and supervisors. For the most part they have been left in limbo, but a current trend of the withdrawal of administrators' organizations from teachers' groups, would seem to indicate a move to the board side. The actual makeup of the team varies greatly and may include such individuals as consultants, legal counsel, and various members of the teacher and administrative staffs.

Sarthory[39] in a study on the effect of the makeup of negotiating teams on the outcome of the negotiations found the following: (1) Teacher teams composed of a majority of secondary teachers are more likely to reach agreement with the board team; (2) It is more difficult to reach agreement with teacher teams composed of teachers with over ten years' experience; (3) The composition of the board team is not significantly related to the outcome of negotiations; (4) The involvement of lawyers in the negotiation is more likely to lead to impasse; (5) The role of the superintendent and the status of the building principal in negotiations is not significantly related to the outcome of the negotiations.

(3) The third major problem involved in negotiations is the possible impasse and its resolution. Many groups enter into bargaining without first deciding what they are going to do in case no agreement is reached. Perry and Wildman[40] cite three options for resolving bargaining impasses: 1) the economic approach based ultimately on the strike; 2) the political approach based on fact-finding by an impartial third party with advisory public recommendations; 3) the rational approach based on a ruling by an impartial third party and is ultimately compulsory binding.

With eighty teacher strikes recorded this year (1972), it would seem the economic approach is still a factor in public education. Indeed, this reliance on the economic approach is the present pattern in education--the unilateral decision by school management on all unresolved issues and the threat of strike by the teachers. This approach is unsatisfactory and leads to crisis bargaining and short-run resolution of problems. The political approach has been shunned by those in education because of the aversion of both sides to community involvement. This factor might be the most influential factor forcing both sides into a mature relationship.[41] The rational approach has been shunned by school management as an illegal delegation of authority. Also, experience in private sector bargaining has shown this approach to have detrimental effects on the bargaining process, and to produce enforcement problems. If the ban on strikes in public education is to be meaningful there must be provisions made for a constructive impasse resolution procedure.

The Future

What is the future of collective negotiations in education? Also, what changes will occur in education through the continued and increased use of

negotiations? There seems no doubt that the trend toward formal collective negotiations will continue and that there will be an increased legal status for bargaining. It is hoped that the bargaining relationship will mature from crisis bargaining to some form of problem solving. Perhaps when the problem of school financing is settled to some degree, the bargaining relationship might change.

The main forecast seems to indicate a widening of the gap between teachers and administrators. While the absence or presence of such a gap, or its width, will depend upon individuals and situations, it is expected that negotiations will contribute to a general divergence of roles. The programs which are an outcome of negotiations, accountability, PPBS, merit pay, differentiated staffing, and loss of tenure are all programs which create a high degree of teacher-administrator conflict.

Collective negotiations may have an adverse effect on the educational program. Perry and Wildman[42] feel that organizational self-interest of teachers might have restrictive tendencies on educational innovations such as automated teaching methodologies, decentralization, differentiated staffing, hiring of para-professionals, and a new systems analysis approach. Doherty and Oberer[43] make the statement that collective bargaining is the only means by which teachers may achieve professional status.

Broderius[44] states that there will be a change in the parties involved in negotiation. Broderius forecasts negotiations involving large components, state and multi-state regions rather than small components, sub-districts and school buildings. This author also feels that the community will become more involved in a legalized form of accountability, rather than a voting procedure. There will be a greater use of multi-year agreements. Negotiations in

curriculum will involve the basic questions of societal change or preservation.

In conclusion, in the future, perhaps the most important skill an administrator might possess is the skill in negotiations or conflict resolution. More and more issues and decisions are being settled at the bargaining table. In the early stages it was believed that the best place for the administrator was on the side, so he would not become involved and jeopardize his position with the opposing parties. There is growing acceptance of the idea that the administrator is on the management team. Administrators are, by definition, management--they supervise, evaluate, hire, assign, organize, etc. Since building administrators usually administer the contract in their buildings, they should be involved in the process. Unless he wants to stay on the side and be left out of the decision-making process, the present-day administrator must accept negotiations as a fact of life in public education and develop the necessary attitudes, knowledge, and skills to function in this relatively new area.

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